



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

SANBORN REGIONAL EDUCATION ASSOCIATION,
NEA-NEW HAMPSHIRE

Complainant

CASE NO. T-0256:14

v.

DECISION NO. 86-09

SANBORN REGIONAL SCHOOL BOARD

Respondent

APPEARANCES

Representing the Sanborn Regional Education Association, NEA/NH

Marc Benson, UniServ Director, NEA/NH

Representing the Sanborn Regional School Board

Robert Leslie, Esq., Counsel

Also in Attendance

- Harry Ryerson, Superintendent
- Karen Currier, SREA
- David G. Conant, Chairman, Sanborn Regional School Board
- Wendy Baker, Member, Sanborn Regional School Board
- Rosemary Putnam, President, SREA
- Phyllis Smart, Nurse, Memorial School

BACKGROUND

The Sanborn Regional Education Association ("Association") filed a unfair labor practice charge against the Sanborn Regional School Board ("Board") on September 13, 1985. The Association charges that the Board failed to employ Nurse Currier, as promised, because she had complained to the PELRB about the re-classification of her position (to "medical assistant") and testified before the PELRB in that case (T-0256:10), thereby violating RSA 273-A:5, I (d).

The School Board denied any breach of RSA 273-A and simply stated that it had filled the new position with someone other than Nurse Currier and that when all the details of the new position were fixed, the position would be announced and Nurse Currier would be free to apply, as would others.

A hearing was held at the School District's offices in Kingston on November 14, 1985, with all parties represented.

FINDINGS OF FACT

1. Nurse Carrier took the position vacated by a school nurse from April 1, 1985 to June 30, 1985. (See SB Exhibit #1)
2. In early May, 1985, the School Board decided to change one nurse position (the one occupied by Carrier) to a "medical assistant" position in the recommendation of Superintendent Ryerson. (See SB Exhibits #2 and #3)
3. On May 3, 1985, Superintendent Ryerson invited Nurse Carrier to make an appointment, pursuant to the School Board action, in order to put her into the new position, stating, "As a result of the School Board's action on May 1, I will have to sit down and work at a contract for next year". (See Association Exhibit #2 and SB Exhibit #4)
4. Prior to the filing of the complaint over the changed position, meetings took place to organize the school's medical needs including the new "medical assistant" position.
5. During this same period, Superintendent Ryerson verbally reassured Nurse Carrier not to worry about a job next year.
6. On May 29, 1985, Nurse Carrier wrote to Superintendent Ryerson pointing out that she erred in calculating her new salary (as "medical assistant") and realized she'd be taking home even less money than she thought. She urged Superintendent Ryerson to reconsider the pay and benefits package for her. (See Association Exhibit #3)
7. On June 4, 1985, the Association filed its unfair labor practice complaint in Case No. T-0256:10, the dispute over the change to "medical assistant".
8. On June 6, 1985, Superintendent Ryerson informed Nurse Carrier, by letter, that he was "...not in a position to discuss with you the position of medical assistant for the 1985-86 school year", and "...at this time the decision of the school board is being challenged and until the problem is resolved, I will not be seeking to contract anyone...". (See Association Exhibit #4)

9. On June 13, 1985, the PELRB granted a motion for a cease and desist order, telling the School Board to hold Ms. Currier in her current nurse position and hold the new "medical assistant" position vacant.
10. A hearing on the complaint was held by PELRB on July 25, 1985 and the decision was issued on August 22, 1985 (Dec. #85-63 in Case No. T-0256:10) finding that the School Board was not guilty of any unfair labor practices in creating a medical assistant position.
11. On August 20, 1985, the principal of one of the schools circulated a memorandum about school personnel including Nurse Currier as part of the medical team. Superintendent Ryerson testified that this was a "mistake".
12. In summer, post PELRB hearing, Superintendent Ryerson told Nurse Currier "people lied" at the hearing. Later Superintendent Ryerson testified he was not referring to Currier.
13. In September of 1985, Nurse Currier wrote to Superintendent Ryerson asking why she hadn't been called into work. (See Association Exhibit #6)
14. On September 10, 1985, Superintendent Ryerson wrote to Nurse Currier stating that she had not accepted the position as medical assistant and therefore was not under contract but could apply for the position when all matters had been approved. (At that time position was filled by substitute at \$35.00 per day.) (See Association Exhibit #7 and SB Exhibit #5)
15. The President of the Association testified that after the PELRB cease and desist order was issued, she spoke to Superintendent Ryerson who told her if she was "smart, would have waited and Nurse Currier would have a job but now doesn't". Under cross-examination, Ms. Putnam admitted that the PELRB order kept the job vacant from anyone but said she felt threatened by Superintendent Ryerson's comments.

In summary, Superintendent Ryerson initially led Ms. Currier and the others to believe that Nurse Currier would become the new "medical assistant" and Currier and the others acted accordingly even into late August. Following the filing of unfair labor practice charges, Superintendent Ryerson told Nurse Currier she could no longer take this for granted since the matter was being contested. Subsequently, Superintendent Ryerson hired a substitute, not Ms. Currier, to fill the position.

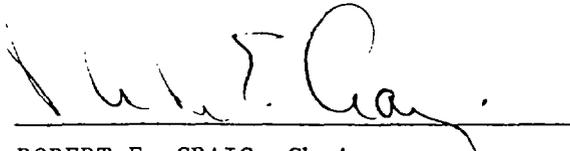
DECISION AND ORDER

Now, therefore, based on the foregoing findings of fact and for all the foregoing reasons, we find the Sanborn Regional School Board guilty of unfair labor practice in violation of RSA 273-A:5, I(d) in not hiring Nurse Karen Currier because of protective activities, rights guaranteed under RSA 273-A.

It is hereby ORDERED that:

- (a) Nurse Karen Currier be appointed to the Medical Assistant position to which she is rightfully entitled for the school year 1985-86.
- (b) The Sanborn Regional School Board take affirmative action to reimburse Nurse Currier, to make her whole, at the substitute Medical Assistant rate of pay up to the date the salary is finalized by the parties, less any earnings she might have received during that period.
- (c) Notify this Board in writing of all steps taken to comply with this Order within thirty days and no later than February 24, 1986.

Signed this 23rd day of January, 1986.



ROBERT E. CRAIG, Chairman

By unanimous vote. Chairman Robert E. Craig presiding. Members Russell F. Hilliard, Richard W. Roulx and Seymour Osman present and voting. Also present, Executive Director, Evelyn C. LeBrun